

(A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).

## GUIDELINES

Examiners must provide reasons and/or examples to support conclusions, but need not cite documents to support the restriction requirement in most cases.

Where plural inventions are capable of being viewed as related in two ways, both applicable criteria for distinctness must be demonstrated to support a restriction requirement.

If there is an express admission that the claimed inventions are obvious over each other within the meaning of 35 U.S.C. 103, restriction should not be required. *In re Lee*, 199 USPQ 108 (Comm'r Pat. 1978).

For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02. That *prima facie* showing may be rebutted by appropriate showings or evidence by the applicant. Insofar as the criteria for restriction practice relating to Markush-type claims is concerned, the criteria is set forth in MPEP § 803.02. Insofar as the criteria for restriction or election practice relating to claims to genus-species, see MPEP § 806.04(a) - § 806.04(i) and § 808.01(a)".

It is respectfully submitted that the Examiner did not make a *prima facie* case to support a restriction requirement. Both criteria for restriction must be established and the Examiner has not alleged, much less shown by evidence, any burden in searching the claimed inventions.

Applicant respectfully requests that the restriction requirement be withdrawn. More particularly, Group V, claim 25, at least should be examined together with the elected claims in Group I, as all of the claims are directed to a method for vehicle stabilization and thus the searches would be co-extensive. If the Examiner disagrees, or believes for any other reason that

direct contact with Applicant's attorney would advance the prosecution of the case to finality, he is invited to telephone the undersigned at the number given below.

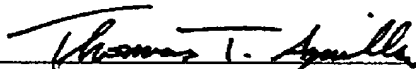
### Conclusion

Applicant believes the claims are patentable over the prior art, and that this case is in condition for allowance of all claims therein. Such action is thus respectfully requested. If the Examiner disagrees, or believes for any other reason that direct contact with Applicant's attorney would advance the prosecution of the case to finality, he is invited to telephone the undersigned at the number given below.

"Recognizing that Internet communications are not secured, I hereby authorize the PTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file."

Respectfully Submitted:

By: \_\_\_\_\_

  
Thomas T. Aquilla, Reg. No. 43,473  
Attorney for Applicant

Aquila & Associates  
88 Lower Creek Road  
Ithaca, New York 14850  
(607) 227-4428 • (607) 347-4191 (fax)  
e-mail: tracy@aquillalaw.com

Dated: October 13, 2005